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2-18-03
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FILED
HARRISBURG, PA

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MARY E. D'ANDREA, CLERK
P61

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**KEITH I. SCHORR, SUSAN
SCHORR, in their own right and
as personal representatives of the
ESTATE OF RYAN K. SCHORR**

Plaintiffs

v.

BOROUGH OF LEMOYNE, et al.

Defendants.

JURY TRIAL DEMANDED

HONORABLE YVETTE KANE

NO. 1:CV-01-0930

**MOTION TO REINSTATE COUNTS VI AND VII
AGAINST DEFENDANT HOLY SPIRIT HOSPITAL**

1. On February 7, 2003, plaintiffs moved the Court to voluntary dismiss numerous claims and counts set out in Plaintiffs' First Amended Complaint.
2. Plaintiffs' Motion to Dismiss was filed in response to the Magistrate Judge's Report and Recommendation regarding Counts IV, V, VI and VII of Plaintiffs' First Amended Complaint against the Commission, Cumberland

County and Howard Dougherty.

3. The Magistrate Judge recommended, among other things, that the Court dismiss Counts VI and VII as to Cumberland County, the Commissioner and Howard Dougherty.

4. The Court had previously denied defendant, Holy Spirit's , Motion to Dismiss Count III and, consequently plaintiffs' damages claims against this defendant in Counts VI and VII were not addressed in the Magistrate Judge's Report and Recommendation.

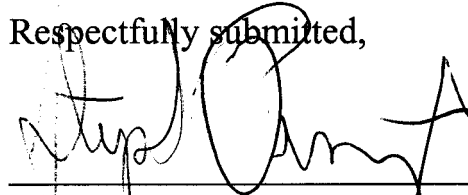
5. Despite the fact that the Magistrate Judge's recommendations were limited to the Commission, Cumberland County and Howard Dougherty in Counts VI and VII, plaintiffs' inadvertently agreed in its motion to voluntarily dismiss these counts as to all defendants, including Holy Spirit Hospital.

6. Counsel for defendant, Holy Spirit, informed plaintiffs of this mistake immediately upon receiving a facsimile of the Court's Order on February 10, 2003, and understands that it was inadvertent.

7. Defendant will not suffer any prejudice if the relief sought by plaintiffs is granted.

WHEREFORE, plaintiffs respectfully request that the Court reinstate Counts VI and VII against defendant, Holy Spirit Hospital.

Respectfully submitted,



STEPHEN S. PENNINGTON, ESQUIRE I.D. #31612

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DATE: 2/13/03

CERTIFICATE OF SERVICE

I, STEPHEN S. PENNINGTON, hereby certify that on this date I served a true and correct copy of the foregoing Plaintiff's Motion To Reinstate upon the following:

Mary E. D'Andrea, Clerk of Courts
U.S. District Court for the
Middle District of Pennsylvania
920 U.S. Courthouse
228 Walnut Street
Harrisburg, PA 17108

Honorable Yvette Kane
U.S. Courthouse
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STEPHEN S. PENNINGTON, ESQUIRE

Dated: February 13, 2003